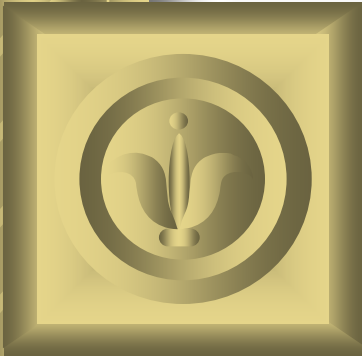


AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) in North Carolina



Compliance Management

**NC Office of Economic Recovery and
Investment (OERI)**

April 27 – May 6, 2010

AMERICAN RECOVERY and REINVESTMENT ACT (ARRA)

On February 17, 2009 President Obama signed into law the American Recovery and Reinvestment Act (ARRA) passed by Congress. The act represents a significant investment in our country's future in the face of the greatest economic crisis since the Great Depression.

The White House predicts that the ARRA will create or save three to four million jobs, the majority of them in the private sector.

The act also benefits the nation by the following:

ARRA CONTINUED

- **Investing \$150 billion in new infrastructure - the largest single increase in our nation's transportation funding since the 1950s**
- **Providing capital over three years to enhance domestic renewable energy capacity**
- **Undertaking a major weatherization and energy conservation program by modernizing public building space and more than 1 million homes**
- **Assisting states by stabilizing their budgets (including education programs at the state and local levels)**
- **Taking a big step toward computerizing Americans' health records**
- **Providing an \$800 tax credit for 129 million working households and cutting taxes for millions of families through an expansion of the Child Tax Credit.**

North Carolina's Share

- ❖ **\$9.58 Billion**
- ❖ **Grants** – for budget stabilization, education programs, infrastructure, energy conservation services
- ❖ **Loans/Bonds**
- ❖ **Contracts by Federal Agencies for projects**
- ❖ **Benefits to Individuals**
- ❖ **More than 1,000 local agencies in NC are involved in grants management**

ARRA OVERVIEW

- ❖ **Special Grants Management Requirements**
- ❖ **On-Going “GAO” Review**
- ❖ **New Federal Recovery, Accountability and Transparency Board**
- ❖ **Greater Federal Department-OIG Review**
- ❖ **Greater State Review**
- ❖ **Greater Levels of Reporting**

ARRA in NC should reflect:

- ❑ “Transparency, Accountability and Efficiency”
.....**Governor Perdue**

- ❑ “Executive Departments and Agencies shall develop transparent, merit-based selection criteria”**President Obama**

- ❑ “Agencies should review their internal procurement review practices to promote competition to the maximum extent”**OMB**

- ❑ “To the maximum extent possible contracts funded under this Act shall be awarded as fixed price contracts through the use of competitive procedures”**American Recovery and Reinvestment Act**

Reality Check

- ❖ **Large Funding Levels and Local Decision-Making**
- ❖ **Tight Time Schedules**
- ❖ **Extensive Media Interest**
- ❖ **On-going Federal/State Inspection of program/projects.**

What You May Already Know

- ❖ **Many state agencies have specific program review standards. Local Program Managers should know what those standards are and the standards should be your first priority**
- ❖ **Many of you know and practice what will be discussed today**
- ❖ **This workshop will serve as a “reminder” for those who already practice good procurement standards**
- ❖ **It will help organizations involved in grants for the 1st time**
- ❖ **ARRA is different with a different set of Guidelines**

Potential Problem Areas

- **Theft** – fraudulent purchases or travel documents and paying for merchandise not received.
- **Bribery** – Contractor pays inspector to overlook substandard materials
- **Kickbacks** – buying products from one vendor without competitive pricing with staff receiving personal payment or gifts from vendor
- **Fraud** – 1) inspector allows substandard work and receives payment, 2) approving applicants for service without adequate qualifying documentation (Income for example), 3) padded payrolls
- **Conflicts of Interest** – 1) Project supervisor allows family members to receive funds from grants and 2) employee is part-owner in contractor, or subcontractor company

Potential Problem Areas Cont'd

- **Conflict of Interest Cont'd – 3)** Staff members talking with contractor about job opportunity, **4)** staff receiving gifts from contractors or grant recipients **5)** Exercise caution to avoid any appearance of conflict of interest.
- **Waste – 1)** Failing to secure most competitive prices by sole source purchases, **2)** Failure to take advantage of discounts and volume purchasing **3)** Unnecessary change-orders and exceeding budgeted appropriations
- **High Risk –** Advance payment for goods and services (waste potential)
- **High Risk/Fraud –** Request for payments in cash or checks made payable to cash
- **Violation of Whistleblower Law –** ARRA provides broader protection to any non-federal employee working on ARRA Projects which includes prohibition of reprisal when an employee reports waste, fraud or abuse.

Conditions that allow Problems

- Only one person can approve payment requests
- Lack of internal controls, separation of duties
- Lack of budget/account discipline, not updating budget accounts with each transaction, failure to follow encumbrance accounting principles, irregular or infrequent reconciling of financial accounts.
- Lack of training for staff on job requirements and expectations – Emphasize that allowing these problems is not acceptable.

More Conditions that allow Problems

- The existence of prior audit findings that impact project management
- High staff turnover in key positions
- Inadequate documentation with payment requests
- Failure to aggressively follow up on complaints
- Failure to gain knowledge on how the grant funds flow through the system and checkpoints
- Payment to vendors not normally part of the project

Why Address These Problems?

- ▶ Federal and State inspections can occur at any time during any given project.
- ▶ Inadequate documentation or expenditure justification can result in REPAYMENT by grant recipient
- ▶ Failure to fix known problems makes your agency a part of the problem and not the solution
- ▶ Prompt action to fix problems makes a statement to staff about what activities are unacceptable
- ▶ Certain problems or actions may be subject to criminal investigation or indictment.

Compliance Checklist Highlights

- ☑ No comingling of ARRA funds with other funds.
- ☑ State and local agencies should promptly resolve outstanding audit questions, especially ARRA Funds. (including recipient agencies)
- ☑ ARRA funds must not be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools, or **SIMILAR PROJECTS.**

Compliance Checklist Highlights Cont'd

- ☑ New competitive bids are expected to be used to maximum extent feasible for purchase of goods, services, or construction projects. Existing contracts should not be used except in unusual circumstances and as approved by OERI.
- ☑ Bid specifications should be written to allow competitive bidding. If competitive bid process waived, justification documentation must be a part of file and available for public inspection.

Compliance Checklist Highlights Cont'd

- ☑ Contracts awarded by state or other public agencies using ARRA funds may not be outsourced outside the U.S. without specific prior approval from the respective federal agency.
- ☑ Contractors and subcontractors for ARRA-funded projects must provide documentation certifying that all federal state, and local tax obligations have been or will be satisfied prior to receiving ARRA funds.
- ☑ Contractors must post with ESC all positions for which they intend to hire workers in accordance with OERI Management Directives

Compliance Checklist Highlights Cont'd

- ☑ Public agencies using recovery funds for procurement of bids for goods, services, and construction projects exceeding \$5,000 must advertise the opportunity in a local newsprint outlet including minority and women-owned outlets.
- ☑ Selection of projects for grant awards should be based on a merit based evaluation using criteria established for the respective program, publicly announced, and made a public record.
- ☑ Selected contractors shall be checked against national and state debarment lists.

Compliance Checklist Highlights Cont'd

- ☑ Recipients shall avoid awarding of funds to parties where the staff involved could have a CONFLICT OF INTEREST.

- ☑ Any claim of fraud or waste of funds must be reported to OERI, openly investigated, and mitigated if found.

- ☑ Agencies using ARRA funds are required to use their best efforts to notify at least one Historically Underutilized Business (HUB) of the opportunity to participate by submitting a bid.

For more checklist items: See Compliance Checklist Handout

Executive Order 13

Support for Historically Underutilized Businesses

- **Signed by Governor Perdue on May 7, 2009**
- **HUBs to benefit from American Recovery and Reinvestment Act (ARRA)**
- **Includes a 10% Aspirational Goal**
- **Equal Opportunities to participate in State procurement and contracting**
- **Coordinated effort to eliminate barriers for HUBs**
- **HUB Office and Office for Economic Recovery & Investment to work together to promote HUBs**

Compliance Documentation & Recordkeeping

Grant recipients are responsible for the following during the project:

- **Be sure to keep accurate documentation and files**
- **Be sure to consolidate all file information that belongs together**
- **Be sure to index files and make written references to information that may be found in other file locations**

CORE MANAGEMENT GUIDANCE FOR ARRA GRANTS

- Organizational Leadership & Oversight
- Budgeting
- Procurement
- Financial Management
- Project Management
- Conflict of Interest
- General Management

For More Information See Handout “Core Management Guidance”

OERI Contact Information

OFFICE OF ECONOMIC
RECOVERY AND INVESTMENT

919-733-1433

-or-

VISIT OUR WEBSITE

www.ncrecover.gov

For Compliance Questions

Email: harry.payne@nc.gov

HELPFUL INFORMATION

- NC Recovery Office website:

<http://ncrecovery.gov>

- The Division of Purchasing and Contracts website:

<http://www.ncpandc.gov>

- Federal Recovery Office website:

<http://www.recovery.gov>